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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,351	10/31/2003	Kenneth M. Brazell	OWT 0209 PUS / PTG 1105 P	1987
22045	7590	10/15/2004	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			SHRIVER II, JAMES A	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,351

Applicant(s)

BRAZELL ET AL. *ST*

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10 and 12-21 is/are rejected.
- 7) ☒ Claim(s) 6 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/4/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on March 4, 2004 has been considered by the examiner.

Drawings

2. The drawings were received on March 4, 2004. These drawings are approved.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. **Claims 12-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** In claim 12, line 1, the phrase "wherein the first structural further" is indefinite.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-5, 7-10 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gress (EP 0,532,132 A2) in view of Kahle (US Patent 6,578,856 B2).**

Gress discloses a collapsible stand (10) for a bench-top power tool (12), the stand comprising a first structural member (46) having a top end pivotally connected to a base (18) of a power tool at a first end of a lower peripheral region of the base, an intermediate region and a bottom distal end defining at least one foot (52) to rest on an underlying surface; a second structural member (56) having a top end pivotally and slidably connected to the lower peripheral region of the base of the power tool, an intermediate region pivotally connected to the first structural member intermediate region (See Fig. 2), and a bottom distal end defining at least one foot (80) to rest on the underlying support surface; wherein an expanded orientation of the stand defined by the second structural member top end being oriented proximate to a second end of the lower peripheral region of the base, and being spaced apart from the first structural member top end and the second structural member bottom end being spaced apart from the first structural member bottom end to provide stable support to the power tool, and the second structural member converges towards the first structural member in a collapsed orientation of the stand whereby the second structural member top end is slid towards the first structural member top end and the second structural member pivots relative to the first structural member about the pivotal connection of the intermediate region whereby the second structural member bottom end is translated towards the first structural member bottom end for providing a compact collapsed stand that is utilized by a user for transporting the power tool and stand upon the pair of wheels; **[claim 2]** wherein the length of the first structural member and the length of the second structural member are sufficient to provide a foot plan of the stand in the expanded orientation that exceeds

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a foot plan of the power tool base for providing stable footing of the power tool relative to the underlying support surface (See Fig. 2); **[claim 3]** further comprising at least one track (22) formed within the base of the power tool, the track being oriented generally perpendicular to an axis about which the first structural member pivots; and a sliding member (26) pivotally attached to the second structural member and slidably engaged to the track for limited translation of the second structural member top end relative to the track; **[claim 4]** wherein at least one of the first and second structural members is defined as a pair of spaced apart tubular legs (See Fig. 1); **[claim 5]** further comprising a handle (42) formed on at least one of the first and second structural members to be grasped by the user; **[claim 8]** further comprising a frame structure (10) including a pair of generally longitudinal members (18) having first and second ends and being interconnected by at least one transverse member (20), the frame being affixed to the lower peripheral region of the power tool base in an orientation relative thereto wherein the longitudinal member first ends are oriented proximate to the first structural member top end and the longitudinal member second ends are oriented proximate to the second structural member top end in the expanded orientation of the stand, each of the pair of longitudinal members having a channel (22) formed therein; and a pair of sliding members (26), each slidably received within the channel for limited longitudinal translation therealong; wherein the first structural member top end is pivotally connected to the frame first end, and the second structural member top end is pivotally connected to the pair of sliding members; **[claim 9]** wherein the frame provides an area contact with the power tool base lower peripheral region; **[claim 10]** wherein the frame is generally rectangular, and the at least one transverse member is further defined as a pair of opposed transverse members (20,24).

Gress does not disclose a locking mechanism mounted to the stand or the power tool base for maintaining a collapsed orientation of the stand relative to the power tool base. Kahle discloses providing a locking mechanism (22,32) mounted to the stand for maintaining a collapsed orientation of the stand relative to the power tool base (See Fig. 3). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a locking mechanism on the stand disclosed in Gress in view of the teaching of Kahle. The motivation for doing so would have been to maintain the stand in the collapsed position during transport of the stand and power tool.

Gress does not disclose a pair of wheels rotatably connected to the base proximate to the first end of the first structural member. Kahle discloses a pair of wheels (42) rotatably connected to the base proximate to the first end of the first structural member (See Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to move the pair of wheels disclosed in Gress from the end of the second structural member to the base proximate to the first end of the first structural member as taught by Kahle. The motivation for doing so would have been to allow movement with the wheels only when the stand is in the collapsed position.

Regarding claim 7, Gress does not disclose wherein the bench-top power tool is further defined as a portable table saw. Although Gress's stand is capable of supporting a table saw, Kahle discloses a stand supporting a portable table saw. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to support a portable table saw on the stand disclosed in Gress as taught by Kahle. The motivation for doing so would have been to

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allow the collapsible stand disclosed in Gress by capable to of transporting various construction tools on the job site.

Regarding claims 20-21, under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986). In this case, the combination of Gress with Kahle inherently discloses the claimed method of claims 20-21.

Allowable Subject Matter

7. Claims 6 and 11-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
8. Claim 22 is allowed over the prior art.

Conclusion

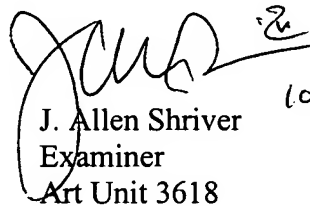
9. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


J. Allen Shriver
Examiner
Art Unit 3618
10/12/04

JAS